

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-219812

DATE: March 25, 1986

MATTER OF: Leslie L. Martinez

DIGEST:

The fact that an employee with back problems needs a multiple adjustable driver's seat does not render a regularly equipped Government-furnished vehicle unavailable. The cost of special equipment of this nature is a personal expense. Thus, an employee who requests to use his own specially equipped vehicle instead of a regularly equipped Government-furnished vehicle is limited to reimbursement at the 9.5 cent mileage rate applicable when a Government-furnished vehicle is authorized and available and the employee elects to use his own vehicle.

Under circumstances where a Government-furnished vehicle is otherwise available, we hold that an employee who travels by privately-owned vehicle equipped with an orthopedic seat is entitled to reimbursement at the rate of 9.5 cents per mile payable when a Government-furnished vehicle is authorized and available and the employee elects to use a privately-owned vehicle. The employee's orthopedic requirements do not render the Government-furnished vehicle unavailable so as to entitle him to reimbursement at the rate of 20.5 cents per mile.^{1/}

BACKGROUND

Mr. Leslie L. Martinez, an employee of the Department of Housing and Urban Development, claims that he suffered a back injury during duty hours in March 1977. He did not file a timely claim for Workmen's Compensation and a

^{1/} The Director, Office of Finance and Accounting, Department of Housing and Urban Development, submitted the request for a decision.

034902

determination has not been made that the back problems here in issue occurred as the result of a job-related injury. Mr. Martinez has, however, submitted statements from his physicians indicating that his back problems are aggravated by driving an automobile not equipped with a multiple adjustable seat adequate to maintain the alignment of his spine.

Mr. Martinez requested authorization to use his privately-owned vehicle equipped with an orthopedic seat for official travel. Consistent with agency policy, he was allowed to use his own vehicle. However, because a Government-furnished vehicle without orthopedic seats was authorized and available the mileage allowance paid to Mr. Martinez was limited to the rate of 9.5 cents per mile. He now seeks payment of an additional \$94.83 based on a mileage rate of 20.5 cents per mile.

DISCUSSION

The Federal Travel Regulations, Chapter 1, Part 4 (Supp. 1, Nov. 1, 1981), incorp. by ref. 41 C.F.R. § 101-7.003 (1984), contain specific provisions applicable when an employee uses a privately-owned vehicle instead of a Government-furnished vehicle. As amended by Supp. 6, June 19, 1983, paragraph 1-4.4c authorizes reimbursement at a mileage rate of 9.5 cents per mile when an employee requests use of a privately-owned conveyance under circumstances where, because of the availability of a Government-furnished automobile, he would not ordinarily be authorized to use a privately-owned conveyance. In contrast, where a Government-furnished vehicle is unavailable for the individual travel assignment or is not advantageous to the Government, reimbursement at the rate of 20.5 cents per mile may be authorized in accordance with paragraph 1-4.2a. Consistent with agency directives implementing these provisions of the Federal Travel Regulations, Mr. Martinez' reimbursement was limited to 9.5 cents per mile because a regularly equipped Government-furnished vehicle was available for his use. Mr. Martinez claims that his need for a multiple adjustable seat renders a Government-furnished vehicle unavailable unless it is equipped with such a seat.

In disallowing Mr. Martinez' claim for reimbursement at the rate of 20.5 cents per mile, the agency relied on our holding in Roy C. Brooks, B-187246, June 15, 1977. In that case we held that an employee who can only use an automobile of specified size and equipment because of a non-job related injury may not be reimbursed for the rental of a specially equipped automobile since the cost of special equipment to enable an employee to perform his official duties constitutes a personal expense of the employee and, as such, is not payable from appropriated funds. We concluded that it is reasonable to expect the employee to furnish the personal equipment necessary to perform the regular duties of his position.

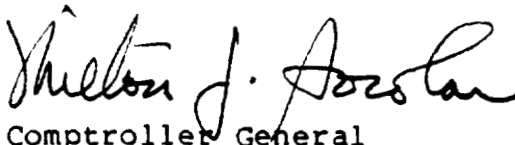
The established rule stated in Roy C. Brooks, cited above, is that the cost of special equipment to enable an employee to qualify himself to perform his official duties constitutes a personal expense and, as such, is not payable from appropriated funds. We have stated that the test to be applied with reference to such expenses, in the absence of specific statutory authority therefor, is whether the expenditure is necessary to carry out the purpose of the appropriation involved or whether the equipment is something that the employee might reasonably be expected to furnish as personal equipment necessary to perform the regular duties of the position. 45 Comp. Gen. 215 (1965); Blaine L. Bowen, B-166411, September 3, 1975.

Under our holding in the Brooks case, Mr. Martinez could not be authorized to rent a specially equipped automobile because the cost of special equipment needed to accommodate his particular back problem is a personal expense. Since he could not be authorized to rent a specially equipped conveyance in lieu of using a regularly equipped vehicle, his need for a special seat would not render a regularly equipped Government vehicle unavailable.

In Mr. Martinez' case, a regularly equipped Government vehicle was in fact available and his need for a special seat does not render that vehicle unavailable. Therefore, because he requested to use his own vehicle, his reimbursement for that use is limited to 9.5 cents per mile in accordance with paragraph 1-4.4c of the Federal Travel

B-219812

Regulation. Since Mr. Martinez has already been reimbursed at this rate, his claim for additional mileage reimbursement is disallowed.

for 
Comptroller General
of the United States